

# **FISCAL NOTE**

## **SB 3428 - HB 3483**

March 10, 2004

**SUMMARY OF BILL:** Makes changes to franchise and excise and sales and use tax laws. Sections one, two, three, and four of the bill revise the method for calculating the excise tax base by disallowing royalties and similar intangible expenses paid to affiliates as an excise tax deduction. Section five of the bill provides a new definition for "finished goods inventory". Revising this definition would exclude "tangible personal property sold over-the-counter to customers at the location where the property is stored" from the deduction for inventory over \$30,000,000 allowed when computing the property base for the franchise tax. Section six of the bill would create a new franchise and excise tax exemption for limited partnerships and limited liability corporations that are organized to provide affordable or low-income housing. Section seven provides a sales and use tax exemption for taxpayers that bring taxable aircraft into Tennessee in conjunction with establishing a new headquarters facility.

### **ESTIMATED FISCAL IMPACT:**

#### **Increase State Revenues:**

**\$3,500,000 FY04-05 / In conjunction with Sections 1,2,3,and 4 of the bill**

**\$6,000,000 / Recurring after FY04-05 in conjunction with Sections 1, 2, 3 and 4 of the bill**

**\$2,000,000 FY04-05 / In conjunction with Section 5 of the bill**

**\$4,000,000 / Recurring in conjunction with Section 5 of the bill**

**Increase State Expenditures - \$71,975 One-Time**

**\$114,539 Recurring**

#### **Decrease State Revenues:**

**\$100,000 / In conjunction with Section 6 of the bill**

**Exceeds \$100,000 Through FY07-08/ In conjunction with Section 7 of the bill**

Estimate assumes:

- Disallowing royalty payments and similar intangible expenses paid to affiliates would increase revenues to the state by \$7,000,000 in the first tax year. However, due to the effective date of the legislation, first year revenue increases to the state would be half that amount or \$3,500,000. Due to tax avoidance behavior on the part of these companies, revenue to the state would fall to \$6,000,000 in subsequent years.

- The increase in revenues to the state associated with changing the definition of "finished goods inventory" is based upon franchise and excise tax collections in fiscal years 2001 and 2002. The FY04-05 revenue to the state is half that of future years due to the effective date of the legislation.
- The total franchise and excise tax liability of LP's and LLCs providing affordable housing over the last several years has ranged between slightly below and slightly over \$100,000. Therefore, the decrease in revenue to the state is estimated to be \$100,000.
- Because it is unknown how many businesses may come into the state to establish a headquarters facility the exact amount of decreased revenue to the state due to the exemption for aircraft brought into the state in conjunction with the establishment of such a facility is unknown. However, it is estimated that the decline in revenue would exceed \$100,000.
- One-time increases in expenditures to the state are for form and systems changes and start up costs for new employees necessary for the Department of Revenue to implement the provisions of this bill.
- Recurring increases in expenditures to the state are to fill two additional attorney positions at the Department of Revenue.

**CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director